

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2438 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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PATHAR SARDUL POCHA & OTHERS

Versus

STATE OF GUJARAT & ANOTHER  
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Appearance:

MR SURESH M SHAH for Petitioners

MR MUKESH PATEL AGP for Respondent No. 2  
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CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 10/08/1999

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties. Rule. Mr. Mukesh Patel, AGP waives service of rule.

2. On the joint request of learned counsel for the parties, this petition is taken up for final hearing today. As a result of the hearing and discussion, the significant point which emerges is that, in the

proceedings under section 73AA, it was urged by all the petitioners of the revision before the Deputy Secretary (Appeals), that they (all the parties to the transaction), would be entitled to an opportunity of reversing the sale transaction, which is the subject matter of objection. It is required to be noted that the said revision was jointly filed by the 6 vendors of the land in question and the two purchasers of the land in question. Thus, this contention or request was made by all the 8 parties to the transaction. This request has been reiterated in the present petition, which is also jointly filed by all those 8 parties.

3. There cannot be any dispute that before the land can be resumed by the government, in the proceedings under section 73AA, parties to the objectionable transaction must be given an opportunity of reversing the objectionable transaction. Admittedly, (as it appears from the record) this opportunity has not been given to them.

4. For this reason, the impugned judgments and orders at Annexures B & C are quashed and set aside and the matter is remanded back to the Collector, Surendranagar for a fresh decision in light of the above-stated observations, whereby the concerned parties shall be given an opportunity of reversing the objectionable transaction. It is clarified that I am not dealing with the other questions raised in the present petition and in particular, the delay in initiating the suo motu revision which is the subject matter of the present petition.

5. In view of the aforesaid observations and directions, the present petition is therefore allowed to the aforesaid extent. Rule is made partly absolute with no order as to costs. It is clarified that the ad interim relief operative today shall continue to operate until the Collector decides the matter afresh, and for two weeks after the said order is communicated to the present petitioners.

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